

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NETCRAFT CORPORATION,

Plaintiff,

v.

AT&T MOBILITY LLC,
BOOST MOBILE, LLC,
CELLCO PARTNERSHIP,
SPRINT NEXTEL CORPORATION, and
T-MOBILE USA, INC.,

Defendants.

C.A. No. 07-651 (GMS)

JURY TRIAL DEMANDED

**NETCRAFT CORPORATION'S REPLY TO
COUNTERCLAIMS OF T-MOBILE USA, INC.**

Netcraft Corporation replies to the counterclaims of T-Mobile USA, Inc. as follows.

Except as expressly admitted below, Netcraft denies each and every allegation in Defendant's counterclaims:

JURISDICTION AND VENUE

1. Netcraft admits the allegations of paragraph 36 of the counterclaims.
2. Netcraft admits the allegations of paragraph 37 of the counterclaims.
3. Netcraft admits that this Court has subject matter jurisdiction over the counterclaims pursuant to 28 U.S.C. §§ 1331, 1338 and 1367. It notes, however, that 28 U.S.C. §§ 2201 and 2202 are not statutes that confer subject matter jurisdiction—they simply create an additional remedy that a Court may issue in cases over which another part of Title 28 establishes subject matter jurisdiction. Likewise, the Patent Laws, 35 U.S.C. § 1, *et seq.* do not contain a provision that confers subject matter jurisdiction. Therefore, Netcraft must respectfully deny that the Court has subject matter jurisdiction pursuant to these statutes.

4. Netcraft admits the allegations of paragraph 39 of the counterclaims

5. Netcraft admits the allegations of paragraph 40 of the counterclaims

FIRST COUNTERCLAIM

6. In response to paragraph 41 of the counterclaims, Netcraft incorporates its responses to paragraphs 36 to 40 of the counterclaims by reference here.

7. Netcraft admits the allegations of paragraph 42 of the counterclaims.

8. Netcraft denies the allegations of paragraph 43 of the counterclaims.

SECOND COUNTERCLAIM

9. In response to paragraph 44 of the counterclaims, Netcraft incorporates its responses to paragraphs 36 to 43 of the counterclaims by reference here.

10. Netcraft admits the allegations of paragraph 45 of the counterclaims.

11. Netcraft denies the allegations of paragraph 46 of the counterclaims.

PRAYER FOR RELIEF

WHEREFORE, Netcraft prays for judgment:

- A. Dismissing T-Mobile's counterclaims with prejudice;
- B. Granting judgment to Netcraft on the counterclaim;
- C. Awarding to Netcraft its costs and attorneys' fees pursuant to 35 U.S.C. § 285;

and


- D. Granting to Netcraft such other and further relief as may be just and appropriate.

DEMAND FOR A JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Netcraft demands a trial by jury on all issues so triable.

Dated: February 11, 2008

FISH & RICHARDSON P.C.

By: 

Timothy Deylin (#4241)
Kyle Wagner Compton (#4693)
919 N. Market St., Suite 1100
P.O. Box 1114
Wilmington, DE 19899-1114
tdevlin@fr.com
kcompton@fr.com
Tel: (302) 652-5070
Fax: (302) 652-0607

Frank E. Scherkenbach
Craig R. Smith
FISH & RICHARDSON P.C.
225 Franklin Street
Boston, MA 02110
Tel: (617) 542-5070
Fax: (617) 542-8906

Michael J. Kane
William R. Woodford
FISH & RICHARDSON P.C., P.A.
3300 Dain Rauscher Plaza
60 South Sixth Street
Minneapolis, MN 55402
Tel: (612) 335-5070
Fax: (612) 288-9696

Attorneys for Plaintiff
NETCRAFT CORPORATION

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CERTIFICATE OF SERVICE

I hereby certify that on February 11, 2008, I electronically filed with the Clerk of Court NETCRAFT CORPORATION'S REPLY TO COUNTERCLAIMS OF T-MOBILE USA, INC. using CM/ECF which will send electronic notification of such filing(s) to the following Delaware counsel. In addition the filing will also be sent via electronic mail:

Mary B. Graham
James W. Parrett, Jr.
Morris Nichols Arshnt & Tunnell LLP
Chase Manhattan Centre
1201 North Market Street, Suite 1800
Wilmington, DE 19801
mbgeservice@mnat.com

Frederick L. Cottrell, III
Anne Shea Gaza
Richards Layton & Finger
One Rodney Square
Wilmington, DE 19801
Cottrell@rlf.com
gaza@rlf.com

Steven J. Balick
John G. Day
Lauren E. Maguire
Ashby & Geddes
500 Delaware Avenue, 8th Floor
Wilmington, DE 19801
sbalick@ashby-geddes.com
jday@ashby-geddes.com
lmaguire@ashby-geddes.com

Warren S. Heit
White & Case LLP
3000 El Camino Real
5 Palo Alto Square, 10th Floor
Palo Alto, CA 94306
wheit@whitecase.com

Richard L. Horwitz
David E. Moore
Potter Anderson & Corroon LLP
1313 N. Market Street, 6th floor
Wilmington, DE 19801
rhhorwitz@potteranderson.com
dmoore@potteranderson.com

I hereby certify that on February 11, 2008, I have mailed by electronic mail, the document(s) to the following non-registered participants:

Josh A. Krevitt
John L. LaBarre
Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166-0193
jkrevitt@gibsondunn.com
jlabarre@gibsondunn.com

Kevin X. McGann
White & Case LLP
1155 Avenue of the Americas
New York, NY 10036
kmcgann@whitecase.com

H. Jonathan Redway
Dickinson Wright PLLC
1901 L. Street, N.W.
Suite 800
Washington, DC 20036
jredway@dickinsonwright.com

James L. Wamsley, II
Jones Day
North Point
901 Lakeside Avenue
Cleveland, OH 44114-1190
jlwamsleyiii@jonesday.com

Michael A. Schaldenbrand
Dickinson Wright PLLC
38525 Woodward Avenue
Suite 2000
Bloomfield Hills, MI 48304-2970
mschaldenbrand@dickinsonwright.com

Mark V. Campagna
Jones Day
1420 Peachtree Street, N.E., Suite 800
Atlanta, GA 30309-3053
mcampagna@jonesday.com



Kyle Wagner Compton